

INTRODUCTION

- [1] The Landlord seeks to keep a portion of the security deposit for cleaning and repairs.
- [2] The Tenants seek the return of the security deposit, including interest.

DISPOSITION

- [3] The Landlord must return the security deposit, including interest, in the amount of \$1,841.88.

BACKGROUND

- [4] The Unit is a three-bedroom and two-bathroom half of a side-by-side duplex (the "Residential Property").
- [5] In February 2022 the Tenants paid a \$1,750.00 security deposit. The parties entered into a written, one-year fixed term tenancy agreement. The parties renewed the fixed-term annually. Rent was \$1,750.00 due on the first day of the month. No pre-tenancy inspection report was completed.
- [6] On January 1, 2024 the parties renewed the fixed-term agreement for another one-year term.
- [7] On April 1, 2024 the rent increased to \$1,802.50 (3.0%) which was the allowable annual guideline for 2024.
- [8] On October 30, 2024 the Tenants gave written notice to the Landlord's representative (the "Representative") that they would not be renewing the fixed-term agreement and were vacating the Unit by November 30, 2024.
- [9] On November 29, 2024 the parties inspected the Unit. No post-tenancy inspection report was completed.
- [10] On November 30, 2024 the Tenants vacated the Unit and the tenancy ended by mutual agreement.
- [11] On December 13, 2024 the Representative filed a *Form 2(B) Landlord Application to Determine Dispute* (the "Landlord Application") with the Residential Tenancy Office (the "Rental Office") seeking to keep a portion of the Tenants' security deposit for cleaning and repairs.
- [12] On December 17, 2024 the Tenants filed a *Form 2(A) Tenant Application to Determine Dispute* (the "Tenant Application") with the Rental Office seeking the return of their security deposit, including interest.
- [13] On January 7, 2025 the Rental Office mailed and emailed the parties notice of a teleconference hearing scheduled for February 18, 2025.
- [14] On February 6, 2025 the Rental Office emailed the parties a 103-page PDF document (the "Evidence Package" or "EP").
- [15] On February 18, 2025 the hearing was adjourned because the Rental Office was delayed from opening due to a winter storm.
- [16] On February 19, 2025 the Representative and the Tenants joined the teleconference hearing. The parties confirmed receipt of the Evidence Package and confirmed that all evidence submitted to the Rental Office was included.

ISSUE

- A. Has the Landlord established valid claims against the Tenants for cleaning and repairs?

ANALYSIS**Landlord Evidence**

- [17] The Representative filed the Application seeking to keep \$1,631.31 from the security deposit under clause 40(1)(b) of the *Residential Tenancy Act* (or the "Act"). The Landlord's claim against the security deposit is for cleaning and repair costs.
- [18] The Representative stated that the Tenants were the first occupants to live in the Unit.
- [19] The Representative stated that when the parties inspected the Unit on the evening of November 29, 2024, the Unit was dark and visibility was poor. The Tenants had disconnected the Unit's power ten days prior. The Representative stated that he returned to the Unit the following day (November 30, 2024) to inspect the Unit. The Representative stated that the Unit was dirty and questioned whether or not the Tenants even cleaned the Unit. The appliances, washer and dryer room, fixtures and windows required cleaning.
- [20] The Representative submitted photographs of the Unit during the November 30, 2024 inspection. There was damage to the kitchen cupboards, the door casing and a bedroom closet latch. The Representative also submitted photographs of the Unit after it was cleaned from early December 2024.
- [21] The Representative submitted an invoice into evidence from East River Property Care Inc., dated December 10, 2024 (EP77):

Cleaning & Repair related Labour	20.5	\$50.00	\$1,025.00;
Cleaning Materials	1	\$178.53	\$178.53;
Outside Contractor Expenses	1	\$115.00	\$115.00;
Material pick up expenses	1	\$100.00	\$100.00;
		Subtotal	\$1,418.53
		HST (15%)	\$212.78
		Total	\$1,631.31

Tenant Evidence

- [22] The Tenants disputed the Landlord's claims for cleaning and repairs.
- [23] The Tenants stated that they informed the Representative three days prior to the inspection that the power was being disconnected in the Unit. The parties inspected the Unit with a flashlight and the Representative did not raise any complaints during the inspection on November 29, 2024.
- [24] The Tenants stated that a reasonably standard of cleanliness was adhered to upon vacating. The Unit was left reasonably clean and any specific cleaning tasks that may have been overlooked, should be minor and fall under reasonable landlord maintenance responsibilities.
- [25] The Tenants denied damaging the Unit and that any damage was normal wear and tear. The Tenants stated that the cupboard hinge did break, however, they reported it to the Representative and purchased a new hinge on October 7, 2024 (EP23-24).
- [26] The Tenants submitted written submissions, which address the specific issues raised by the Landlord (EP10-26). The Tenants requested the return of their full security deposit, including interest.

The Law & Findings

- [27] Clause 39(2)(a) of Act provides the following rules regarding the condition of a rental unit at the end of the tenancy:

When a tenant vacates a rental unit, the tenant shall

- (a) *leave the rental unit reasonably clean and undamaged, except for reasonable wear and tear...*

- [28] Recently, the Island Regulatory and Appeals Commission (the "Commission") in Order LR25-02 commented on the importance of photographs at the beginning of the tenancy to establish a baseline condition of a rental unit. The Commission stated:

"The Commission wishes to remind landlords that in order to fully support claims for damage and or necessary cleaning it is essential to have pictures for both the beginning and the end of the tenancy. Pictures at the beginning of the tenancy are necessary to establish a reference point with respect to condition and cleanliness."

- [29] In this case, the Landlord did not submit photographs of the Unit prior to the start of the tenancy. Further, a pre-tenancy inspection report would have been helpful in assisting in establishing a baseline condition of the Unit. However, I note that in these circumstances, a pre-tenancy and post-tenancy inspection report was not obligatory under section 109 of the Act.
- [30] The onus to establish such expenses rests on the party seeking the claim. The claim must be supported by objective and compelling evidence with respect to the cause and the cost of the claim.
- [31] After reviewing the evidence, I am not satisfied that the Landlord has established a baseline condition of the Unit. Further, I find that the evidence does not establish that the Unit's condition was below the standard of reasonably clean or that the damage was beyond normal wear and tear.
- [32] Therefore, the Landlord's claims are denied and the Landlord Application is denied. The Tenant Application is allowed.

IT IS THEREFORE ORDERED THAT

1. The Landlord must pay the Tenants \$1,841.88 by April 14, 2025.

DATED at Charlottetown, Prince Edward Island, this 14th day of March, 2025.

(sgd.) Cody Burke

Cody Burke
Residential Tenancy Officer

NOTICE

Right to Appeal

This Order can be appealed to the Island Regulatory and Appeals Commission (the “Commission”) by serving a Notice of Appeal with the Commission and every party to this Order within **20 days of this Order**. If a document is sent electronically after 5:00 p.m., it is considered received the next day that is not a holiday. If a document is sent by mail, it is considered served on the third day after mailing.

Filing with the Court

If no appeal has been made within the noted timelines, this Order can be filed with the Supreme Court of Prince Edward Island and enforced as if it were an order of the Court.